

Wheelchair Accessible Vehicle List – s.165-167 Equality Act 2010

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Portfolio: Finance, IT & Customer

Wards Affected: All

Purpose of the Report

To notify the Committee that a number provisions in the Equality Act 2010 came into force on 6th April 2017. Sections 165 and 167 provide that a Local Authority may produce and maintain a list of Wheelchair Accessible Vehicles licensed by them. The driver of a vehicle on the list would have a number of duties imposed upon him/her in relation to carrying a passenger who is in a wheelchair.

Recommendations

That Members note the amendments to the Equality Act 2010 and recommend officers to produce a designated vehicles list, to be brought back to the Committee for approval.

1. **Background**

- 1.1 The Equality Act 2010 achieved royal assent on 8th April 2010 and brought together over 100 pieces of existing legislation, most noticeably the:
 - Equal Pay Act 1970
 - Sex Discrimination Act 1975
 - Race Relations Act 1976
 - Disability Discrimination Act 1995
 - Employment Equality (Religion or Belief) Regulations 2003
 - Employment Equality (Sexual Orientation) Regulations 2003
 - Employment Equality (Age) Regulations 2006
 - Equality Act 2006, Part 2
 - Equality Act (Sexual Orientation) Regulations 2007
- 1.2 In relation to transporting disabled persons in taxis the provisions that commenced on 1st October 2010 replaced those in the Disability Discrimination Act 1995 and included sections 168-173 - the requirement to carry assistance dogs in Hackney Carriages and Private Hire Vehicles, the circumstances in which a driver may be exempted from carrying assistance dogs and that the Secretary of State may issue regulations and guidance in relation to carrying disabled passengers.
- 1.3 On 6th April 2017 sections 165 and 167 were commenced and relate to the carriage of passengers in wheelchairs, and the implementation of a wheelchair accessible vehicle list
- 1.4 Section 165 – Passengers in Wheelchairs – details the duties that would be imposed on the driver, definitions of ‘designated’, ‘the passenger’, ‘private hire vehicle’, and ‘mobility assistance’, and the offence that would be committed by the driver for failing to comply with the duties.
- 1.5 The definitions are:
 - ‘Designated’ - relates to a taxi/private hire vehicle that appears on the list made under s.167;
 - ‘The passenger’ means the disabled person concerned;
 - ‘Private Hire Vehicle’ means:-

- (a) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;
- (b) a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;
- (c) a vehicle licensed under an equivalent provision of a local enactment;
- (d) a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982.

- 'Mobility Assistance' means assistance:-
 - (a) to enable the passenger to get into or out of the vehicle;
 - (b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
 - (c) to load the passenger's luggage into or out of the vehicle;
 - (d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

- 1.6 The duties imposed on the driver are:
- (a) to carry the passenger while in the wheelchair;
 - (b) not to make any additional charge for doing so;
 - (c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
 - (d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
 - (e) to give the passenger such mobility assistance as is reasonably required.
- 1.7 If a person is found guilty of the offence of failing to comply with a duty then they may be fined up to Level 3 (currently £1000).
- 1.8 Section 167 - Lists of wheelchair-accessible vehicles – details that a Local Authority may maintain a list of Hackney Carriage and Private Hire Vehicles that conform to such accessibility requirements as the licensing authority thinks fit, and that the Secretary of State may issue guidance with respect to the maintaining a list.
- 1.9 In April 2017 the Secretary of State issued statutory guidance under s.167 of the Act and it is attached to the report at Appendix A. The Council must have regard to this guidance if it is decided that a list should be produced and maintained.
- 1.10 Section 166 allows LAs to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as the LA thinks appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties. Section 172 of the Act enables drivers to appeal against the decision of a LA not to issue an exemption certificate.

2. **Proposal**

- 2.1 That the Committee note the amendments to the Equality Act 2010, agree that the Local Authority should adopt the relevant provisions to produce and maintain a list of Wheelchair Accessible Vehicles, and return to Committee with a proposed definition as to what would be classed a 'designated vehicle' and therefore appear on the list.

3. **Reasons for Preferred Solution**

- 3.1 The relevant provisions in the Act have been commenced and if the Licensing Authority create a list it will assist in reducing the opportunity for our licensed drivers to disadvantage and discriminate against wheelchair using members of the public by refusing to carry out the

booking, or request a higher fare to carry them. Without a list of Wheelchair Accessible Vehicles made under s.167 it is not an offence for a driver to refuse to offer 'mobility assistance' to a prospective passenger.

4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

4.1 Creating a cleaner, safer and sustainable Borough

4.2 Creating a healthy and active community

5. **Legal and Statutory Implications**

5.1 The enactment of these provisions of the Equality Act 2010, are discretionary powers. The powers are detailed in section 1 of the report.

6. **Financial and Resource Implications**

6.1 The creation of a designated vehicle list would be completed from existing officer resource.

6.2 The designated vehicle list would mean that as a Hackney Carriage licensed vehicle is replaced, it would need to be replaced with a make and type of vehicle detailed on the designated vehicle list. This would have the effect of increasing the number of disabled accessible vehicles for the public. It would also mean that the type of vehicle that could be licensed will have reduced and operators would have to purchase specific vehicles.

7. **Background Papers**

The Equality Act 2010